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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 , ) Case No. CV RNB  
12 Plaintiff(s), )  
13 vs. ) CIVIL JURY TRIAL ORDER  
14 , )  
15 Defendant(s). )  
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18 This case is set for a jury trial before the Honorable Robert N. Block, in  
19 Courtroom No. 6D, Ronald Reagan Federal Building and United States Courthouse,  
20 411 West Fourth Street, Santa Ana, California.

21 To facilitate the efficient conduct of the trial in this matter, all parties shall  
22 review carefully the following Order and instructions, as well as the Court's  
23 Scheduling and Case Management Order.

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25 **I. Jury Instructions, Verdict Forms and Special Interrogatories**

26 Fourteen (14) days before the Rule 16 meeting of counsel, the parties shall  
27 exchange proposed jury instructions, verdict forms and special interrogatories. Seven  
28 (7) days before the meeting, the parties shall exchange written objections, if any, to

1 each other's proposed jury instructions, verdict forms and special interrogatories. At  
2 the Rule 16 meeting, counsel shall confer with the objective of submitting one set of  
3 agreed-upon substantive jury instructions, verdict forms and, if necessary, special  
4 interrogatories.

5 “Substantive jury instructions” means all instructions relating to the elements  
6 of all claims and defenses in the case.<sup>1</sup> The parties need not submit general  
7 instructions. Each jointly requested instruction shall be typed and set forth in full; be  
8 on a separate page; cover only one subject or principle of law; and not repeat  
9 principles of law contained in any other jointly requested instructions.

10 If the parties are unable to agree upon one complete set of substantive  
11 instructions, verdict forms and special interrogatories, they shall file two documents  
12 with the Court on the date specified in the schedule attached as Exhibit A to the  
13 Scheduling and Case Management Order: first, a joint document reflecting the agreed-  
14 upon instructions, verdict forms and special interrogatories, if any; and second, a joint  
15 statement regarding the disputed instructions, verdict forms and special  
16 interrogatories. The second document (the joint statement) shall be prepared in the  
17 following format for each disputed instruction, verdict form and special interrogatory:

- 18 a. A separate page containing the text of the disputed instruction,  
19 verdict form, or special interrogatory with an identification of the party  
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21 <sup>1</sup> The parties are advised that the Court prefers the use of Ninth Circuit  
22 model instructions as modified or supplemented to fit the circumstances of the case.  
23 Where California law is to be applied and the Ninth Circuit model instructions are  
24 inapplicable, counsel are directed to use California Civil Jury (BAJI) and/or the  
25 Judicial Council of California Civil Jury Instructions (CACI). If none of these sources  
26 is applicable, counsel are directed to use the instructions in O'Malley, Grenig & Lee,  
27 Federal Jury Practice and Instructions, Fifth, to the extent applicable. Modifications  
28 of instructions from the foregoing sources (or any other form instructions) must  
specifically state the modification made to the original form instructions, and cite the  
authority supporting the modification.

proposing it;

b. Following the text, the opposing party's statement of objections, along with legal authority in support of the objections (not to exceed one page) and proposed alternative language where appropriate;

c. The proposing party's response to the objection with legal authority supporting the proposed language (not to exceed one page).

A table of contents shall be included with all jury instructions submitted to the Court. The table of contents shall set forth the following:

- a. The number of the instruction;
- b. A brief title of the instruction;
- c. The source of the instruction; and
- d. The page number of the instruction.

For example:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page Number</u>
7	Trademark-Defined	9th Cir. 15.3.2	8

Concurrently, the parties shall also deliver to chambers a copy of these filings on disk in either Microsoft Word or WordPerfect® 6.0 or higher format.

During the course of the trial and before closing arguments, the Court will meet with counsel and settle disputes regarding the submitted instructions, verdict forms and special interrogatories. The Court also will address any other instructions deemed warranted by unexpected developments during the course of the trial.

Unless all counsel agree to have the Court instruct the jury before closing argument, the Court will instruct the jury after closing argument. The Court also will send copies of the jury instructions, verdict forms and special interrogatories into the jury room for use by the jury during deliberations.

1 **II. Joint Statement of the Case**

2 Concurrently with the filing of their jury instruction document(s), the parties  
3 shall also file a joint statement generally describing the action, to be read to the jury  
4 by the Court prior to the commencement of voir dire. This statement shall include the  
5 names of the parties and a brief description of plaintiff(s)' claims. It should not exceed  
6 two pages in length, and ordinarily two or three paragraphs should suffice.

7  
8 **III. Voir Dire Questions**

9 Concurrently with the filing of their jury instruction document(s), each party  
10 shall also file its separate proposed voir dire questions. The parties need not submit  
11 requests for standard voir dire questions (e.g., education, current occupation, marital  
12 status, prior jury service, etc.), but rather should include only proposed questions  
13 tailored to the parties and issues of the case.

14  
15 **IV. Trial Times**

16 On the first day of trial, court will commence at 8:30 a.m., and conclude at  
17 approximately 4:30 p.m., with a lunch break. The Court initially will meet with  
18 counsel to ensure that all matters necessary for resolution prior to trial have been  
19 resolved. The jury panel will be called when the Court is satisfied that the matter is  
20 ready for trial. Jury selection usually can be accomplished in a few hours, so counsel  
21 should be prepared to proceed with their opening statements and witness examination  
22 immediately after jury selection.

23 After the first day of trial, trial days will be Tuesday through Friday, from 8:30  
24 a.m. to 2:30 p.m., with two 15-minute breaks, normally at 10:00 a.m. and 12:00 p.m.  
25 As necessary, the Court will meet with counsel before and/or after each day's regular  
26 trial session to deal with such matters as anticipated evidentiary problems and jury  
27 instructions. This schedule is subject to change.

1 **V. Jury Selection**

2 The Court will conduct voir dire of all prospective jurors, after taking into  
3 consideration each party's timely filed proposed voir dire questions.

4 In selecting a jury, the following procedures will most likely be followed. The  
5 Courtroom Deputy initially will sit the entire group of prospective jurors in the  
6 visitors benches of the Courtroom. The Court then will read the agreed-upon joint  
7 statement of the case and determine whether any prospective jurors should be excused  
8 for cause because, for example, they know a lawyer, party or prospective witness. The  
9 Court also will determine whether the length of the trial requires that other prospective  
10 jurors be excused for "undue hardship." From the remaining pool of prospective  
11 jurors, the Courtroom Deputy will select at random 13 or 14 jurors. Each of these  
12 prospective jurors will then answer in turn some general questions (e.g., occupation,  
13 education, prior jury experience). The Court then will ask more specific voir dire  
14 questions that have been individually tailored for the case.

15 Following the questioning of each of the 13-14 prospective jurors, the Court  
16 will entertain challenges for cause. The parties are advised that the Court will not  
17 necessarily accept a stipulation to a challenge for cause. The prospective jurors  
18 excused for cause will be replaced by jurors selected at random from the remaining  
19 pool. The new jurors will then be questioned, and the process will be repeated until  
20 the Court determines that none of prospective 13 or 14 jurors should be excused for  
21 cause.

22 Each side then will be permitted up to three (3) peremptory challenges, on an  
23 alternating basis.<sup>2</sup> To avoid the potential embarrassment of a disallowed peremptory  
24 challenge on the grounds set forth in Batson v. Kentucky, 476 U.S. 79, 106 S. Ct.  
25 1712, 90 L. Ed. 2d 69 (1986), the party making a Batson objection shall request a side

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27 <sup>2</sup> The Court may allow up to three (3) peremptory challenges per party  
28 where there are multiple parties with adverse interests on one or both sides.

1 bar. At side bar, the party making the Batson objection will be required to make the  
2 requisite prima facie showing, before the Court will ask opposing counsel to provide  
3 an explanation for striking the prospective juror(s) in question.

4 Following the resolution of all challenges, the first seven (7) of the remaining  
5 randomly-called prospective jurors will constitute the jury panel for trials estimated  
6 to last four (4) days or less. For trials estimated to last more than four (4) days, the  
7 first eight (8) of the remaining randomly-called prospective jurors will constitute the  
8 jury panel.

## 9 10 **VI. Exhibits**

### 11 **A. Format**

12 The parties shall prepare their exhibits for presentation at trial by placing them  
13 in 3-ring binders in the following format.

14 1. Each binder shall be divided by tabs down the side with  
15 corresponding exhibit numbers.

16 2. In the original set of exhibits to be filed with the Court and  
17 maintained by the Courtroom Deputy during trial, each exhibit shall be tagged  
18 with the appropriate filled-out exhibit tags in the lower or upper right hand  
19 corner of the first page of each exhibit.

20 3. The exhibits shall be numbered in accordance with Local Rule 26-  
21 3.

22 4. The front of each binder shall contain a list of each exhibit  
23 included, with a notation indicating whether the parties have stipulated to the  
24 admission of the exhibit.

### 25 26 **B. Filing**

27 Each party shall file an original and one copy of their exhibit binder(s) on the  
28 first day of trial. The parties shall also present to the Courtroom Deputy three (3)

1 extra copies of the joint exhibit list.

2  
3 **C. Presentation to the Jury**

4 In jury cases where a significant number of exhibits are to be admitted, the  
5 Court encourages counsel, preferably by prior agreement, to consider ways in which  
6 testimony about exhibits may be clarified for the jury while it is being presented.  
7 Counsel should consider the use of such devices as overhead or ELMO projectors,  
8 jury notebooks for admitted exhibits, and/or blow-ups of important exhibits. Where  
9 appropriate, counsel should take advantage of Fed. R. Evid. 1006 (“Summaries”) to  
10 present voluminous evidence. Only in rare circumstances will the Court permit  
11 counsel to pass exhibits up and down the jury box.

12  
13 **VII. Deposition Transcripts**

14 The Court expects strict compliance with Local Rules 16-2.7 and 32-1. An  
15 extra copy of each deposition transcript anticipated to be used at trial for any purpose  
16 shall also be presented to the Courtroom Deputy on the first day of trial, when counsel  
17 check in.

18  
19 **VIII. Extra copies of Witness Lists**

20 When counsel check in on the first day of trial, they shall also present to the  
21 Courtroom Deputy three copies (3) of their witness list, in the order in which the  
22 witnesses are anticipated to testify. If a witness is not going to be testifying live, then  
23 the words "By deposition" shall be added in parentheses and underlined in red after  
24 the witness' name.

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26 **IX. Rules of Courtroom Etiquette**

27 **A. Opening Statements and Closing Arguments**

28 1. Opening statements and closing arguments should be delivered

1 from the lectern only.

2 2. Counsel should keep in mind that the purpose of an opening  
3 statement is to inform the jurors of the nature of the case, the facts they expect  
4 to be proved in the trial and the issues in the case. An opening statement is not  
5 an argument to the jury, and it is not permissible to attempt to argue to the jury  
6 about the application of the law to the facts at this stage of the case.

7  
8 B. Examination of Witnesses

9 1. Counsel should examine witnesses from the lectern only, and  
10 speak audibly and clearly when examining a witness or interposing an  
11 objection. Counsel should instruct their witnesses to speak audibly and clearly  
12 as well.

13 2. Counsel should not approach a witness without securing  
14 permission in advance from the Court. The Court will only grant permission  
15 for the limited purpose of placing a document (after showing it first to opposing  
16 counsel) before the witness. If necessary to direct the witness' attention to  
17 something particular in the document, counsel may remain adjacent to the  
18 witness box for that limited purpose. Otherwise, counsel shall return to the  
19 lectern when the purpose of the approach is finished.

20 3. If a party is represented by more than one lawyer, only one lawyer  
21 may conduct the direct or cross-examination of a given witness, or argue a  
22 given motion.

23 4. At the end of each trial day, counsel for the party presenting its  
24 case shall advise opposing counsel of the witnesses anticipated to be called the  
25 following trial day with an estimate of the length of direct-examination.  
26 Opposing counsel shall then provide an estimate of the length of cross-  
27 examination.



1 C. Objections to Questions

2 1. Counsel should rise when making an objection.

3 2. Counsel should not use objections for the purpose of making  
4 speeches, recapitulating testimony or attempting to coach the witness.

5 3. When objecting, counsel should rise to state the objection, and  
6 then state only that counsel is objecting and the legal ground of the objection  
7 (e.g., hearsay, irrelevant, etc.). If counsel wishes to argue an objection further,  
8 counsel should ask for permission to do so. Only rarely will the Court permit  
9 side-bar conferences about evidentiary issues during a jury trial. Most unusual  
10 or complex evidentiary issues can be foreseen and disposed of in advance;  
11 those that cannot ordinarily will be disposed of at the next recess, with the  
12 witness retained until the issue is resolved.

13  
14 D. Use of Depositions

15 1. In using depositions of an adverse party for impeachment, counsel  
16 shall use either one of the following procedures:

17 a. If counsel wishes to read the questions and answers as  
18 alleged impeachment and ask the witness no further questions on that  
19 subject, counsel shall first state the page and line where the reading  
20 begins and the page and line where the reading ends, and allow time for  
21 any objection. Counsel may then read the portions of the deposition into  
22 the record.

23 b. If counsel wishes to ask the witness further questions on the  
24 subject matter, the deposition shall be placed in front of the witness and  
25 the witness shall be instructed to read silently the pages and lines  
26 involved. Then counsel may ask the witness further questions on the  
27 matter and thereafter read the quotations, or counsel may read the  
28 quotations and thereafter ask the further questions. Counsel should have

1 an extra copy of the deposition for this purpose.

2 2. Where a witness is absent and the witness' testimony is offered by  
3 deposition, a reader should occupy the witness chair and read the testimony of  
4 the witness while the examining lawyer asks the questions. However, if the  
5 offered testimony is relatively short in length (i.e., less than one transcript  
6 page), then the Court will permit counsel to read both the questions and the  
7 answers.

8  
9 E. Use of numerous answers to interrogatories and/or requests for  
10 admission

11 Whenever counsel expects to offer a group of answers to interrogatories or  
12 requests for admission extracted from one or more lengthy documents, counsel should  
13 prepare a new document listing each question and/or request for admission and each  
14 answer, and identifying the document from which the answer has been extracted.  
15 Copies of this new document should be given to the Court and opposing counsel. This  
16 procedure is intended to conserve time.

17  
18 F. Exhibits

19 1. Each counsel should keep his/her own list of exhibits and keep  
20 track of which exhibits have been admitted into evidence.

21 2. Each counsel shall be responsible for any exhibits that he/she  
22 secures from the Courtroom Deputy and, at all recesses and at the afternoon  
23 adjournment, shall return all exhibits in his/her possession to the Courtroom  
24 Deputy.

25 3. An exhibit not previously marked should, at the time of its first  
26 mention, be accompanied by a request that the Courtroom Deputy mark it for  
27 identification. To save time, counsel should show a new exhibit to opposing  
28 counsel before it is mentioned in Court.

1           4.     No exhibit shall be read or displayed to the jury before it is  
2     admitted. The Court regards admissibility of exhibits as a legal issue for the  
3     Court to rule on unless there is agreement among counsel. Counsel are  
4     admonished to make no motion to admit an exhibit while the jury is present  
5     unless counsel previously has conferred with opposing counsel and knows that  
6     there will be no objection to the admission of the exhibit. Whenever the Court  
7     hears a motion to admit an exhibit while the jury is present, the Court will  
8     assume that counsel already has cleared admission of the exhibit with opposing  
9     counsel and grant the motion. If opposing counsel does interpose an objection,  
10    the Court will expect a full explanation from counsel who made the motion to  
11    admit the exhibit why he/she did so in the jury's presence.

12           5.     When referring to an exhibit, counsel should refer to its exhibit  
13    number whenever possible. Witnesses should be instructed to do the same.

14           6.     Absent unusual circumstances, counsel shall not ask witnesses to  
15    draw charts or diagrams nor ask the Court's permission to do so. If counsel  
16    wishes to question a witness in connection with graphic aids, the material  
17    should be fully prepared before the court session begins.

18           7.     Counsel should not attempt to use or display any enlargements of  
19    exhibits or charts unless all counsel agree to such use, or the Court has ruled on  
20    any objections in advance. This applies to opening arguments as well.

21  
22    G.     Advance Notice of Unusual or Difficult Issues

23           If any counsel has reason to anticipate that a difficult question of law or  
24    evidence will necessitate legal argument regarding research or briefing, counsel must  
25    give the Court advance notice. Counsel shall notify the Courtroom Deputy at the  
26    day's adjournment if an unexpected legal issue has arisen that could not have been  
27    foreseen and addressed by a motion in limine. See Fed. R. Evid. 103. To the  
28    maximum extent possible, the Court will address such issues either before or after a

1 day's regular trial session.

2  
3 H. Promptness of Counsel and Witnesses

4 1. Counsel are expected to arrive on time and be prepared to proceed,  
5 as the Court makes every effort to start on time. Promptness also is expected  
6 from witnesses. Once trial has commenced, it shall be counsel's first priority.  
7 The Court will not delay a jury trial or inconvenience jurors except under  
8 extraordinary circumstances. On request, the Court will advise other courts that  
9 counsel are engaged in a jury trial in this Court.

10 2. If a witness was on the stand at a recess or adjournment, it is the  
11 duty of counsel who called the witness to have the witness back on the stand,  
12 ready to proceed, when Court resumes.

13 3. Counsel shall notify the Courtroom Deputy in advance if any  
14 witness needs to be accommodated based on the Americans with Disabilities  
15 Act or for other reasons.

16 4. The Court attempts to cooperate with doctors and other  
17 professional witnesses and will, except in extraordinary circumstances,  
18 accommodate them by permitting them to be called out of sequence. Counsel  
19 should anticipate any such possibility and discuss it with opposing counsel in  
20 advance. If there is an objection, it should be brought to the Court's attention  
21 in advance.

22 5. Counsel should not run out of witnesses. If counsel has no more  
23 witnesses to call and there is more than a brief delay, the Court may deem that  
24 party to have rested.

25  
26 I. General Decorum

27 1. The trial is not an oratorical contest. The trial should be a quiet,  
28 dignified search for the truth.

1           2.     Counsel should rise when addressing the Court. Counsel and the  
2 parties also should rise when the jury enters or leaves the Courtroom.

3           3.     All remarks by counsel should be addressed to the Court. While  
4 the judge is present, counsel should not address the Courtroom Deputy, the  
5 Reporter or opposing counsel. If counsel wishes to say something to opposing  
6 counsel, permission from the Court to speak off the record should be requested.  
7 All requests for the re-reading of questions or answers, or to have an exhibit  
8 placed in front of a witness, should be addressed to the Court.

9           4.     Counsel should not address or refer to witnesses by their first  
10 names, unless they are children.

11          5.     The maintenance of personal dignity requires care in the  
12 pronunciation of a person's surname. If necessary, counsel should inquire  
13 privately, in advance of the first reference to the name in court, how a person  
14 pronounces his or her name and how he or she prefers to be addressed (e.g.,  
15 whether Maria Lopez Garcia prefers to be referred to as Ms. Garcia or Mrs.  
16 Lopez Garcia).

17          6.     Counsel should not make an offer of stipulation in the presence of  
18 the jury unless counsel already has conferred with opposing counsel and has  
19 been advised by opposing counsel that the stipulation is acceptable.

20          7.     While Court is in session, counsel should not leave the counsel  
21 table to confer with investigators, secretaries or witnesses in the back of the  
22 Courtroom unless permission has been secured in advance from the Court.

23          8.     Counsel should not by facial expression, nodding or other conduct  
24 exhibit any opinion (adverse or favorable) concerning any testimony being  
25 given by a witness. Counsel should also admonish their own clients and  
26 witnesses to avoid such conduct.

27          9.     Counsel should not talk to jurors at all, and should not talk to co-  
28 counsel, opposing counsel, witnesses or clients where the conversation can be

overheard by any jurors. Counsel should also admonish their own clients and witnesses to avoid such conduct.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

ROBERT N. BLOCK  
UNITED STATES MAGISTRATE JUDGE